

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

GODFREY GARCIA,	§	
Petitioner,	§	
	§	
v.	§	C.A. NO. C-05-349
	§	
DOUG DRETKE, DIRECTOR, TEXAS	§	
DEPARTMENT OF CRIMINAL	§	
JUSTICE - INSTITUTIONAL	§	
DIVISION,	§	
Respondent.	§	


**MEMORANDUM OPINION AND ORDER DENYING CERTIFICATE OF  
APPEALABILITY**

On February 7, 2006 the Court adopted the Magistrate Judge's Memorandum and Recommendation (D.E. 17) and dismissed Garcia's § 2254 habeas petition (D.E. 23). Final judgment was entered the same day (D.E. 24). On February 14, 2006 Garcia filed a notice of appeal to the U.S. Court of Appeals for the Fifth Circuit (D.E. 25). An appeal may not be taken from a final order in a habeas corpus proceeding unless a circuit or district judge issues a certificate of appealability. Fed. R. App. P. 22(b)(1); 28 U.S.C. § 2253(c)(1)(a).

This Court dismissed Garcia's § 2254 habeas petition because it was successive. Therefore, for Garcia to be entitled to a certificate of appealability, Garcia must show both that "jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it

debatable whether the district court was correct in its procedural ruling.” *Slack v. McDaniel*, 120 S.Ct. 1595, 1604 (2000). Reasonable jurists could not disagree about whether Garcia’s petition is successive. Accordingly, Garcia’s certificate of appealability is denied.

Ordered this 7 day of April, 2006.

  
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HAYDEN HEAD  
CHIEF JUDGE